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CHANDIGARH ADMINISTRATION
LAW & PROSECUTION DEPARTMENT

Notification

The 5th December, 2024

No. LDE-2/2017/6-(Rectt-12)2024/14588.—In exercise of the powers conferred by sub-section (1) of section 19 of the Bharatiya Nagarik Suraksha Sanhita, 2023, read with Government of India, Ministry of Home Affairs Notification bearing No. S.O. 2506 (E) dated 28.06.2024, the Administrator, Union Territory, Chandigarh is pleased to designate Sh. Yadwinder Singh and Sh. Surinder Pal Singh, Assistant District Attorneys as Assistant Public Prosecutor for the local area comprising the whole of the Union Territory of Chandigarh, for conducting prosecution in the Judicial Courts at Chandigarh.

Further, in exercise of powers conferred by clause (7) of Section 2 of the Code of Civil Procedure, 1908, the Administrator, Union Territory, Chandigarh is also pleased to designate Sh. Yadwinder Singh and Sh. Surinder Pal Singh, Assistant District Attorneys as Government Pleader, for the whole of the Union Territory of Chandigarh and authorizes them to perform all or any of the functions expressly provided in the said Code.

Chandigarh :
The 29th November, 2024.

ABHIJIT VIJAY CHAUDHARI, IAS,
Law Secretary,
Chandigarh Administration

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CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 25th November, 2024

No. 474247-HII(2)-2024/17723.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **47/2023** dated **10.09.2024** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

PUNJAB ROADWAYS WORKERS UNION (INTUC) (REGD. & RECOGNIZED) THROUGH ITS PRESIDENT AND SECRETARY ON BEHALF OF SH. RANDHIR SINGH - DRIVER NO.116, PUNJAB ROADWAYS, CHANDIGARH. (Workman)

AND

1. THE SECRETARY TRANSPORT, PUNJAB AT CHANDIGARH.
2. THE DIRECTOR STATE TRANSPORT, PUNJAB JEEWANDEEP BUILDING, SECTOR 17, CHANDIGARH. (Management)

AWARD

1. The Punjab Roadways Workers Union (*here-in-after referred "workers' union"*) has presented industrial dispute under Section 2(k) of the Industrial Disputes Act, 1947 (*here-in-after in short called "ID Act"*).

2. Briefly stated the averments of claim statement are that Randhir Singh - Driver No.116, Punjab Roadways, Chandigarh (*here-in-after referred "workman"*) was illegally charge-sheeted as per charge-sheet dated 13.07.2010 on the basis of false report of shortage of 107 liters diesel and causing loss of ₹ 3,590/- to the Government revenue. On the basis of the charge-sheet, an Inquiry Officer was appointed and the Inquiry Officer have not conducted the inquiry in a fair & proper manner. In spite of the fact that there was no material on record and no witnesses were examined to prove charges, Inquiry Officer submitted his report against the workman. On the basis of report of Inquiry Officer, Punishing Authority passed punishment order whereby one increment of the workman was stopped with commulative effect as per order dated 26.05.2011/ 07.06.2011.

3. It is further averred that in another incident, the workman was again illegally charge-sheeted as per charge-sheet dated 19.03.2009 on the basis of false report of absent from duty w.e.f. 06.12.2008 to 19.02.2009. On the basis of said charge sheet, an Inquiry Officer was appointed and the Inquiry Officer have not conducted the inquiry in a fair & proper manner. Workman duly replied to the charge sheet but the Inquiry Officer did not consider the well-reasoned reply and there was no material on record and no witnesses were examined to prove charges, Inquiry Officer submitted his report against the workman. On the basis of Inquiry Officer Punishing Authority stopped two increments of the workman with cumulative effect as per order dated 13.06.2012 / 25.06.2012.

4. It is further averred that in another incident, the workman was again charge-sheeted as per charge-sheet dated 25.11.2011 on the allegation that accident took place during the course of employment. MACT Court awarded compensation of ₹ 4,98,405/- to the legal heirs of the deceased and the same was paid by the department out of funds created under Motor Vehicle Act. The punishment order was passed only on the basis

of copy of Award of MACT. The workman was issued charge-sheet, Inquiry Officer was appointed and Inquiry Officer as well as Punishing Authority held workman guilty only on the basis of findings given by MACT. During the inquiry only departmental witnesses appeared, who placed on record copy of MACT Award and except that there was no material on record to hold the workman guilty. No eye-witness was examined. Punishing Authority has passed punishment order dated 27.11.2013 / 01.01.2014 whereby two increments were stopped with cumulative effective. The workman was held guilty only on the basis of hearsay evidence.

5. It is further averred that though there was no material on record against the workman on the inquiry file, Punishing Authority passed three different orders of punishment dated 26.05.2011 / 07.06.2011 whereby one increment of the workman was stopped with commulative effect, another order dated 13.06.2012 / 25.06.2012 whereby two increments of the workman were stopped with cumulative effect and further it was ordered that workman shall not be paid his salary for the period of suspension beyond subsistence allowance and order dated 27.11.2013 / 01.01.2014 whereby two increments were stopped with cumulative effective which amounts to major punishment, though workman was assured that he shall be awarded only minor punishment. In this way Punishing Authority backed out from his promise. Against all the three orders of punishment, workman filed an appeal which was dismissed by an non-speaking order / noting dated 21.06.2019 without appreciating the grounds of appeal and other material on record. The inquiry reports, punishment orders and order of the Appellate Authority deserves to be set aside on the following grounds amongst others :-

- a) The charge-sheets are misconceived and fabricated. The workman had not committed any fraud, embezzlement and not remained absent from duty w.e.f. 06.12.2008 to 19.02.2009 and no financial loss has been accrued to the department due to the negligence of the workman.
- b) The Inquiry Officers have not conducted the inquiry proceedings in a fair & proper manner and as per rules. By mis-representation Punishing Authority got the confession of the workman which was not voluntary but with an assurance of Punishing Authority that workman shall be left with minor punishment only.
- c) The orders of Punishment Authority are non-speaking in nature as the Punishing Authority has not given any findings for his conclusion.
- d) The Inquiry Officer as well as Punishing Authority failed to appreciate that there was no evidence on record to prove the alleged misconduct by the Inquiry Officers and Punishing Authority to prove the misconduct of the workman.
- e) The orders of Punishing Authority as well as Appellate Authority have been passed without any application of mind and appreciating the facts of each case. Therefore, all the three orders deserve to be set aside.

6. It is further averred that the workman made several requests to the management to withdraw the illegal orders but all in vain. Prayer is made that the reference of the workman may be allowed and the illegal order of punishment dated 26.05.2011 / 07.06.2011, 13.06.2012 / 25.06.2012 and 27.11.2013 / 01.01.2014 and order of Appellate Authority dated 21.06.2019 may be set aside and necessary order be passed to release all the monetary benefits to the workman which were withheld by the managements by virtue of these illegal orders along with interest @ 12% per annum.

7. On notice, managements No.1 & 2 contested the claim statement by filing joint written statement dated 18.08.2023 wherein preliminary submissions are made to the effect that the demand notice is not maintainable in the present form. The workman has no locus standi and no cause of action. The workman has not approached this Court with clean hands and suppressed the true and correct facts. The true fact is that the valid charge sheets were served as per law and the impugned punishment orders were passed by the competent authority as per law. The punishment orders are correct and legal in the eyes of law and binding upon the

workman as the defendants (*here-in-after 'managements'*) suffered the financial loss due to negligence of the workman. The proper & fair inquiry has been conducted by the office of management. The full opportunities were given to the workman to defend himself. The Inquiry Officer also gave the opportunity for assistance of co-worker during the inquiry. The Inquiry Officer conducted the inquiry in a proper & fair manner after following the provisions of the Punjab Civil Services (Punishment and Appeal) Rules, 1970. The Punishing Authority agreed to the Inquiry Officer and issued a valid show cause notice to the workman. After providing full opportunity of personal hearing to the workman, the punishment orders were passed subsequently. The Appellate Authority has rightly passed the order dated 21.06.2019 after granting full opportunity to the workman. The workman has failed to assert the defect in the procedure of inquiry proceedings. The workman is wrongly demanding the setting aside of the impugned punishment orders whereas these punishment orders are technically and legally valid as per the provisions of Punjab Civil Services (Punishment and Appeal), Rules 1970.

8. Further on merits, with regard to charge sheet dated 13.07.2010, it is stated that the proper & fair inquiry has been conducted by the management. Full opportunities were given to the workman to defend himself and the Inquiry Officer also gave opportunity for assistance of co-worker during the inquiry. The workman was legally charge sheeted. The Inquiry Officer has conducted the inquiry in a proper & fair manner after following the provisions of Punjab Civil Services (Punishment and Appeal) Rules, 1970. The Punishing Authority agreed to the Inquiry Officer and issued valid show cause notice to the workman. After providing full opportunity of personal hearing, the punishment order was passed and the appeal was rightly dismissed vide order dated 21.06.2019. The workman has failed to raise any discrepancy in the procedure of inquiry proceedings and wrongly demanding for setting aside of the punishment orders. The impugned punishment orders are technically as well as legally valid as per the provisions Punjab Civil Services (Punishment and Appeal) Rules, 1970. The punishment orders are correct and legal in the eyes of law and binding upon the workman. The management suffered financial loss due to negligence of the workman. Similar stand is taken with regard to inquiry of charge sheet dated 19.03.2009. It is specifically stated that the Punishing Authority passed the impugned punishment order on the basis of the evidence, material and statement of witnesses during the inquiry proceedings and after considering the version of the workman. With regard to charge sheet dated 25.11.2011, it is stated that the workman was on duty as Driving Bus No.PB-65-E-1315 and an accident took place to his fault as the workman was driving the bus in a rash & negligent manner. The management-department had suffered financial loss to the public exchequer. Due to rash & negligent driving of the workman, one lady died in the said accident. A claim petition was filed under Motor Vehicle Act by the LRs of said lady which was allowed by the MACT, Ferozepur. Resultantly, the management-department has paid ₹4,98,405/- to the LRs of the deceased as per MACT Award dated 04.05.2010 passed by MACT, Ferozepur. Amount of ₹ 4,98,405/- was paid out of public money due to fault of the workman. The punishment orders were passed by the competent authority as per law. The Appellate Authority rightly rejected the appeal against the punishment orders and that the appeal was time barred. Further similar stand is taken as taken in the preliminary submissions. Rest of the averments of claim statement are denied as wrong and prayer is made that the present industrial dispute reference may be dismissed with costs.

9. Replication not filed. From the pleadings of the parties following issues were framed vide order dated 22.09.2023 :-

1. Whether the orders of punishment dated 07.06.2011, 26.05.2011, 25.06.2012, 13.06.2012, 27.11.2013 and 01.01.2014 and order of appeal dated 21.06.2019 are illegal ? If so, to what effect and to what relief the workers union / workman is entitled to, if any ? OPW
2. Whether the departmental inquiry conducted by the management is fair and proper ? OPM
3. Whether the claim statement is not maintainable ? OPM
4. Whether the workman has no locus standi and no cause of action ? OPM
5. Relief.

10. In evidence, workers' union examined workman Randhir Singh as AW1, who tendered his affidavit Exhibit 'AW1/A' along with documents Exhibit 'W1' to Exhibit 'W5'.

Exhibit 'W1' is copy of charge sheet dated 05.05.2011.

Exhibit 'W2' is copy of order dated 26.05.2011 bearing endorsement dated 07.06.2011 passed by Director State Transport, Punjab.

Exhibit 'W3' is copy of order dated 13.06.2012 bearing endorsement dated 25.06.2012 passed by Director State Transport, Punjab.

Exhibit 'W4' is copy of order dated 27.11.2013 bearing endorsement dated 01.01.2014 passed by Director State Transport, Punjab.

Exhibit 'W5' is copy of order dated 21.06.2019 passed by Appellate Authority received through RTI vide letter dated 19.08.2021.

11. On 17.05.2024 Learned Representative for workers' union closed evidence in affirmative.

12. On the other hand, managements examined MW1 Surinder Singh - Junior Assistant, O/o General Manager, Punjab Roadways, Chandigarh, who tendered his affidavit Exhibit 'MW1/A' along with documents Exhibit 'M1' to Exhibit 'M4'.

Exhibit 'M1' is original authority letter dated 05.08.2024 issued in favour of Surinder Singh by General Manager, Punjab Roadways, Chandigarh.

Exhibit 'M2' is attested copy of inquiry file in order dated 07.06.2011.

Exhibit 'M3' is attested copy of inquiry file in order dated 13.06.2012.

Exhibit 'M4' is attested copy of inquiry file in order dated 01.01.2014.

13. During cross-examination MW1 placed on record copy of judgment dated 23.02.2023 passed by Shri Pradeep Syngal, JMIC, Ferozpur as Mark 'A'.

14. On 28.08.2024, Learned Law Officer for managements closed oral evidence and on 10.09.2024 Learned Law Officer for managements closed documentary evidence.

15. I have heard arguments of Learned Representative for the workers' union and Learned Law Officer for the managements No.1 & 2 and perused the judicial file. My issue-wise findings are as below :-

Issues No. 1 & 2 :

16. Both these issues are taken up together being inter-connected and in order to avoid repetition of discussion.

17. Onus to prove issue No.1 is on the workers' union and onus to prove issue No.2 is on the managements.

18. Under these issues, workers' union examined AW1 Randhir Singh (workman), who vide his affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto, which are not reproduced here for the sake of brevity. AW1 supported his oral versions with documents Exhibit 'W1' to Exhibit 'W5'.

19. On the other hand, managements examined MW1 Surinder Singh - Junior Assistant, Office of General Manager, Punjab Roadways, Chandigarh, who vide his affidavit Exhibit 'MW1/A' deposed that he is working as Junior Assistant in the office of General Manager, Punjab Roadways, Chandigarh and authorized to leading the defence evidence before this Court. The workman has no local standi to file the present demand notice in this Court because no legal rights of the workman have been infringed, no cause of action have accrued in his favour for filing of the present demand notice, hence the same is liable to dismissed. The

workman has not approached this Court with clean hands and suppressed the true and correct facts, while filing the present demand notice. The true fact is that the valid charge-sheet was served as per law and the impugned punishment orders dated 07.06.2011, 13.06.2012 and 01.01.2014 were passed by the competent authority as per law. The said punishment orders are correct and legal in the eyes of law and binding upon the workman as the defendants (here-in managements) suffered the financial loss due to the negligence of the workman. MW1 further deposed that the proper and fair inquiry has been conducted by the office of the management. The full opportunities were given to the workman to defend himself and the Inquiry Officer also gave the opportunity for assistance of co-worker during the inquiry. The Inquiry Officer conducted the enquiry in proper and fair manner after following the provisions of the Punjab Civil Services (Punishment and Appeals) Rules, 1970. The punishing authority agreeing to the Inquiry Officer, issued the valid show cause notice to the workman and after providing the full opportunity of personal hearing to the workman subsequently passed the punishment orders mentioned in demand notice by the workman. The workman has failed to assert the defect in the procedure of inquiry proceeding. The workman wrongly demanding the setting aside of the impugned punishment orders whereas these impugned punishment orders are technically as well as legally valid as per the provisions of the Punjab Civil Services (Punishment and Appeal) Rules, 1970. MW1 further deposed that the valid charge-sheet was served as per law. The said punishment orders are correct and legal in the eyes of law and binding upon the workman as the defendants (here-in managements) suffered the financial loss due to the negligence of the workman. The proper and fair inquiry has been conducted by the management. The full opportunities were given to workman to defend himself and the Inquiry Officer also gave the opportunity for assistance of co-worker during the inquiry. The Inquiry Officer was conducted the enquiry in proper and fair manner after followed the provisions of the Punjab Civil Services (Punishment and Appeal) Rules, 1970. The appellate authority rightly rejected the appeal against the punishment orders as the appeal filed by the workman was time barred. MW1 supported his oral version with documents Exhibit 'M1' to Exhibit 'M4'.

20. From the oral as well as documentary evidence led by the parties, it comes out that Randhir Singh was employed as Driver No.116 with Punjab Roadways, Chandigarh. During tenure of service he was served charge sheet at three occasions. First, he was served charge-sheet dated 13.07.2010 in which after conducting departmental inquiry workman was punished vide punishment order dated 26.05.2011 bearing endorsement dated 07.06.2011 passed by Sh. Mandeep Singh - Director State Transport, Punjab. Secondly, he was served charge-sheet dated 19.03.2009 in which after conducting departmental inquiry workman was punished vide punishment order dated 13.06.2012 bearing endorsement dated 25.06.2012 passed by Sh. Mandeep Singh - Director State Transport, Punjab. Thirdly, he was served charge-sheet dated 25.11.2011 in which after conducting departmental inquiry workman was punished vide punishment order dated 27.11.2013 bearing endorsement dated 01.01.2014 passed by Sh. Sumair Singh Gurjar - Director State Transport, Punjab. The workman challenged all the above three punishment orders by filing an appeal before Chief Secretary Transport, which were dismissed as per the noting dated 21.06.2019 served to the workman along with forwarding letter addressed from Superintendent, Punjab Govt. Transport Department (Transport - I Branch) to Randhir Singh, in reply to Randhir Singh's application dated 15.07.2021 seeking information under RTI Act, 2005.

21. The grievance of the workman is that in the charge sheet dated 13.07.2010, the allegation against the workman was that earlier KMPL (kilometers per liter) of the bus on which he was deputed for duty was 4.4, 4.5, 4.7 and 5.0 of different buses, whereas workman has shown KMPL 3.6, 4.2, 4.1 which is less than previous KMPL, therefore, the workman has consumed 135 liters excess diesel as per report submitted by Diesel Pump Operator. It is argued by Learned Representative for workers' union that KMPL depends on various factors and cannot be consistent all the times. KMPL also depends on the condition and age of the bus. The workman in reply to show cause notice has given the following reasons for less KMPL :-

- i) On 13.06.2010, the flexible shaft of the bus was broken on the route.
- ii) On 21/22.06.2010 due to jam on the GT road, the workman was compelled to choose alternative long route through villages.

22. It is further argued by Learned Representative for the workers' union that the charge sheet itself spell out that KMPL was not consistent earlier also. The management has not produced any evidence what was KMPL of the bus, given by the company. To support his arguments Learned Representative for the workers' union referred cross-examination of prosecution witness which is discussed in the inquiry report dated 07.01.2011 of Inquiry Officer - Traffic Manager, Punjab Roadways, Chandigarh, wherein the workman had put the question that if in the course of route, flexible pipe is broken or leaked, whether in that situation the bus shall consume more diesel ? to which witness replied in affirmative. The workman had put another question to the prosecution witness that if the flexible pipe is leaked, that does not come in the notice of Driver immediately during driving ?, to which replied that he cannot say and he has no knowledge of the same. The workman put another question if there is a jam on GT road, then more diesel is consumed, to which the witness replied in affirmative and further stated that if breaks of the bus get jammed on the way, in that situation the bus shall consume more diesel. The workman put another question that if the bus is overloaded with passengers, the same can affect the KMPL, to which witness replied in affirmative. By making reference to the abovesaid answers given by the prosecution witness in his cross-examination during the inquiry proceedings, Learned Representative for the workers' union argued that from the above evidence, it is clear that it has not been proved on record that excess diesel was consumed due to negligence of the workman. There is no evidence that alleged excess diesel was misappropriated by the workman. On the road there may be several reasons for less KMPL which facts are admitted by the prosecution witness.

23. To my opinion, the aforesaid argument advanced by Learned Representative for the workers' union are devoid of merits, because in reply dated 18.04.2011 filed by the workman to the inquiry report, he has pleaded that on 13.06.2010 the flexible pipe of the bus broken / leaked resulting into more consumption of diesel but he got this pipe repaired from workshop Mukatsar Depot. In the present case as well as in the inquiry file, there is no document showing that the workman has got repaired the broken flexible pipe either on 13.06.2010 or immediately after from workshop Mukatsar Depot. It is further pleaded by the workman in his reply dated 18.04.2011 that while going on Amritsar route, cam shaft (*kaima*) jammed resulting into less KMPL. The aforesaid explanation offered by the workman does not stand proved because the workman either in the present case or in the inquiry proceedings did not place on record any document or proof as to what action he has taken to resolve the alleged jammed cam shaft. The workman in his reply dated 18.04.2011 further pleaded that on 21.06.2010 while going on route, due to traffic jam he has to take a longer route via villages resulting into less KMPL. The aforesaid explanation offered by the workman also does not stand proved because the workman in the present case or during inquiry proceedings did not specifically mentioned the alternative route in kilometres, which he had to travel due to alleged traffic jam.

24. The next grievance of the workman relating to charge sheet dated 19.03.2009 is that in the inquiry proceedings the Inquiry Officer in his report accepted the explanation of the workman that his absence was due to illness. Learned Representative for the workers' union argued that unless the absence is proved intentional and willful, no conduct is made out against the workman and in the present case, there are no findings of the Inquiry Officer that workman's absence was willful and intentional.

25. To my opinion, as far as inquiry into charge sheet dated 19.03.2009 is concerned, admittedly the allegations against the workman was that he was willfully absent from duty w.e.f. 06.12.2008 to 19.02.2009. Workman / AW1 when put to cross-examination admitted as correct that he was charge-sheeted on 19.03.2009 for willfully absent from duty w.e.f. 06.12.2008 to 19.02.2009. It is not the case of the workman that his reply to charge sheet was not considered but it is admitted case of the workman that he did not file any reply to the charge sheet dated 19.03.2009. In this regard, workman / AW1 when put to cross-examination admitted as correct that he has not filed reply to the charge sheet dated 19.03.2009. AW1 further admitted as correct that he has been proved guilty by the Inquiry Officer in the findings of the inquiry dated 29.04.2021. The findings dated 29.04.2011 of the Inquiry Officer - Traffic Manager, Punjab Roadways, Chandigarh (part of Exhibit 'M2') would reveal that the workman has been held guilty for remaining absent from duty without

applying information or without any information through telegram. As per the inquiry record lying attached with the inquiry file, the workman has applied leave from 11.01.2009 to 19.02.2009 after availing the leave period. In this regard MW1 in his cross-examination admitted as correct that the workman duly informed the department regarding his absence which is already on record at page No.5 to Page No.25 of inquiry file i.e. leave application along with medical certificate. MW1 further by making volunteer statement clarified that the workman submitted the said application along with the medical record only after joining duty. Moreover, it is not the case of the workman that before availing leave he had sent any intimation to his department. In view of the fact that the workman despite availing opportunity did not file reply to charge sheet dated 19.03.2009 and proceeded on leave without intimating his department, accompanied with the fact that Inquiry Officer - Traffic Manager, Punjab Roadways, Chandigarh has given a detailed inquiry report mentioning therein the reasons to held the workman / delinquent official guilty, no ground is made out to interfere in the findings recorded by Inquiry Officer in inquiry report dated 29.04.2011.

26. As far as the charge sheet dated 25.11.2011 is concerned, undisputedly on 10.10.2007 at 4:30 P.M., the workman was driving bus bearing registration No.PB-65-E-2315 of Chandigarh depot and when the bus approaching from Forezpur side stopped at Lakho Ke Bahram, a lady Surjit Kaur while in process of alighting from the bus, fell down as the bus Driver started the bus and run the same in a rash & negligent manner. The victim lady was taken to the hospital and then referred to another hospital and ultimately succumbed to injuries. Admittedly, FIR No.148 dated 13.10.2007 under Section 304-A IPC Police Station Mamdot was registered against the bus Driver Randhir Singh (here-in workman). In the trial of FIR No.148/2007, Randhir Singh (accused) was acquitted by extending the benefit of doubt to him by the trial Court of Shri Pradeep Syngal, PCS, JMIC, Ferozepur / Mark 'A' whereas in the proceedings before the Motor Accident Claim Tribunal, the compensation was awarded to the Legal Heirs of victim by the management-department. Learned Representative for the workers' union argued that in the inquiry of charge sheet dated 25.11.2011, the workman has been held guilty on the basis of the Award passed by the Motor Accident Claim Tribunal. The negligence of the workman was neither proved before the Motor Accident Claim Tribunal nor before the Judicial Magistrate, 1st Class in the trial of FIR No.148/2007. Any allegation and incident do not constitute mis-conduct unless such incident is relating to any deficiency or misconduct or against whom such incident is relatable. Except a reference to incident, nothing was stated in the charge sheet. Moreover, on acquittal in FIR, the findings in the departmental inquiry on the same set of charges cannot be allowed to stand.

27. To my opinion, as far as legality of the findings of the Inquiry Officer in his inquiry report dated 26.04.2013 are concerned, no doubt the workman was acquitted in the trial of FIR No.148/2007 by the trial Court of JMIC, Ferozepur but the fact remains that the Motor Accident Claim Tribunal in accident claim bearing case No.102 dated 03.11.2007 decided on 04.05.2010 awarded compensation of ₹ 4,37,000/- along with 6% interest to the Legal Heirs of the deceased and held Randhir Singh guilty for driving bus in rash & negligent manner and the compensation amount was paid by the management-department causing financial loss to the tune of ₹ 4,98,405/- (₹4,37,000/-compensation including 6% interest, total amount comes to ₹ 4,98,405/-). The workman Randhir Singh was arrayed as respondent No.1, Sarabjit Singh - Conductor as respondent No.2 and Managing Director, PUNBUS, Chandigarh as respondent No.3 in MACT case No.102/03.11.2007 decided on 04.05.2010 (copy of Award dated 04.05.2010 of MACT Ferozepur is part of inquiry file Exhibit 'M4'). In award dated 04.05.2010 the claimants are held entitled to receive the amount of compensation in equal share from the respondents, who are held liable to pay the amount of compensation jointly and severally. It is not the case of the workman either in departmental proceedings or before this Court that he has challenged the Award dated 04.05.2010 before any Court of competent jurisdiction or that the Award dated 04.05.2010 has been reversed or modified or set aside by any Court of jurisdiction. Thus, no ground is made out to interfere in the findings recorded by the Inquiry Officer in his inquiry report dated 26.04.2013.

28. As per the judgment of Hon'ble Supreme Court of India titled as ***Kurukshetra University Versus Prithvi Singh***, reported in **2018 LLR 371** referred by Learned Representative for the workers' union under Section 11A of the ID Act, if the inquiry is held illegal, then the Industrial Adjudicator has power to

interfere in the quantum of punishment in view of gravity of misconduct(s) proved against the workman by reducing the quantum of punishment as it may be assessed. In the present case, the workers' union failed to prove that the evidence considered by the respective Inquiry Officers in the inquiry into charge sheet dated 13.07.2010, 19.03.2009 and 25.11.2011 was in-sufficient. The workman failed to prove his defence in the matter of inquiry proceedings of above said three charge sheets even before this Court. Apart from that the workman has failed to show any discrepancy in the evidence of the department before the concerned Inquiry Officers and also failed to prove any procedural lapse in the inquiry proceedings. So far the procedure of the inquiry is concerned, three departmental inquiries were conducted against the workman by issuing charge sheet dated 13.07.2010, 19.03.2009 and 25.11.2011 with respect to inquiry of charge sheet dated 13.07.2010 workman / AW1 in his cross-examination admitted as correct that he was charge-sheeted on 13.07.2010 on the basis of shortage of 107 litre diesel. AW1 stated that he has filed reply to the charge-sheet dated 13.07.2010. The regular enquiry was conducted which he has joined. AW1 stated that he replied to the findings of the inquiry report. The show-cause notice dated 05.05.2011 was also issued to him. He has filed reply to the show-cause notice dated 05.05.2011. With respect to charge sheet dated 19.03.2009, the workman / AW1 in his cross-examination admitted as correct that he was charge-sheeted on dated 19.03.2009 for willful absence from duty w.e.f. 06.12.2008 to 19.02.2009. AW1 stated that he does not remember whether he filed reply to findings of inquiry dated 29.04.2011. AW1 further admitted as correct that show-cause notice dated 18.10.2011 was issued to workman and the same was not replied by him. He was afforded the opportunity of personal hearing before the punishing authority. With respect to charge sheet dated 25.11.2011 the workman / AW1 in his cross-examination stated that he was charge-sheeted on 25.11.2011 on the allegation that an accident took place due to his negligence and he caused financial loss to the department. He has filed reply dated 13.01.2012 to the charge-sheet dated 25.11.2011. The reply was filed by him to the inquiry report. AW1 stated that the show cause notice dated 27.08.2013 was issued against him which was replied by him on dated 19.09.2013.

29. From the above said version of workman / AW1 it is duly proved that the workman has not only received the copy of the inquiry report dated 07.01.2011 relating to charge sheet dated 13.07.2010 and inquiry report dated 26.04.2013 relating to charge sheet dated 25.11.2011 but has also admittedly filed reply / comments to the said inquiry report. The workman has disputed the supply of inquiry report dated 29.04.2011 of charge sheet dated 19.03.2009. Learned Representative for the workers' union argued that copy of inquiry report dated 29.04.2011 was not supplied to the workman and non-supply of same vitiates the inquiry proceedings. To support his arguments Learned Representative for the workers' union referred the judgment of Hon'ble High Court of Punjab & Haryana in **Jagir Singh Versus State of Haryana & Others**, reported in **2022(3) PLR 696**. To my opinion, the workman has failed to prove the non-supply of copy of inquiry report dated 29.04.2011 to him as workman / AW1 when put to cross-examination did not specifically deny the fact whether he has filed reply to the findings of inquiry dated 29.04.2011. No suggestion was put by the workman / workers' union to MW1 in his cross-examination alleging non-supply of inquiry report dated 29.04.2011. From the perusal of the inquiry file Exhibit 'M3' relating to charge sheet dated 09.03.2009, it is made out that after conducting the inquiry by following the complete procedure Inquiry Officer - Traffic Manager, Punjab Roadways, prepared the detailed inquiry report dated 29.04.2011. Vide endorsement No.TA6/10583 dated 08.06.2011 workman Randhir Singh - Driver No.116 received copy of inquiry report dated 29.04.2011 under his signatures on 22.06.2011. The workers' union / workman has not put any suggestion to MW1 denying the receipt of the inquiry report by the workman under his signatures on 22.06.2011. As the receipt of the inquiry report dated 29.04.2011 by the workman under his signatures forms part of inquiry file Exhibit 'M3'. From the discussed made above, it is duly proved on record that workman despite receipt of the inquiry report dated 29.04.2011 did not prefer to file written reply or to offer his written comments on the same. To such circumstances, the judgment referred by Learned Representative for the workers' union / workman reported in **2022(3) PLR 696 (supra)** is not applicable to the facts of the present case. The workman has failed to controvert the fact that before passing the punishment order dated 26.05.2011 bearing endorsement dated 07.06.2011 / Exhibit 'W2' with respect to charge sheet dated 13.07.2010, punishment order dated 13.06.2012 bearing endorsement dated 25.06.2012 / Exhibit 'W3' with respect to charge sheet dated 19.03.2009 and punishment order dated 27.11.2013 bearing endorsement dated 01.01.2014 / Exhibit 'W4', the punishing authority i.e. Director State

Transport, Punjab provided personal hearing to the workman. Therefore, the inquiry proceedings are proved to have been conducted by following the complete procedure under Punjab Civil Services (Punishment and Appeal) Rules. The workman has not alleged any bias against the Inquiry Officers. Besides, the inquiries are proved to have been held in a just & fair manner. Consequently, no ground is made out to interfere either in the findings of fact arrived at in the departmental inquiry proceedings nor in the punishment orders Exhibit 'W2' to Exhibit 'W4' and order of appeal dated 14.06.2019 / Exhibit 'W5'.

30. Accordingly, issue No.1 is decided against the workers' union / workman and in favour of the management No. 1 & 2. Issue No.2 is decided in favour of the management No.1 & 2 and against the workers' union / workman.

Issues No. 3 & 4 :

31. Onus to prove these issues is on the managements.

32. Learned Law Officer for the managements raised the objection of non-maintainability of the claim statement in the present form but failed to explain how the same is not maintainable. To my opinion, the worker's union on being aggrieved from the orders of punishment and order of dismissal of appeal relating to workman, raised the industrial dispute by way of demand notice dated 08.09.2021 under Section 2(k) of the ID Act and on failure of the conciliation proceedings before the Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh vide his failure report bearing Memo No.2930 dated 13.12.2022, presented the claim statement before this Court / Tribunal. Thus, the present claim statement is proved to have been filed with a valid cause of action and locus-standi. I do not find any defect so far maintainability of the present statement of claim is concerned.

33. Accordingly, both these issues are decided against the management No.1 & 2 and in favour of the workers' union / workman.

Relief :

34. In the view of foregoing findings on the issues above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

(Sd.) . . . ,

Dated : 10.09.2024.

(JAGDEEP KAUR VIRK),
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT**Notification**

The 25th November, 2024

No. 474227-HII(2)-2024/17727.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **76/2020** dated **18.09.2024** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

REEMA DEVI (SECURITY GUARD) W/O SH. MANOJ KUMAR R/O HOUSE NO.104, BLOCK-1, COLONY NO. 4, INDUSTRIAL AREA, PHASE - 1, CHANDIGARH - 160002. (Workman)

AND

1. THE CMD, SWIFT SECURITAS PVT. LTD. CORPORATE OFFICE AT: #2, RAJDHANI ENCLAVE, NEAR RANI BAGH, PITAMPURA, NEW DELHI -110034.
2. THE MANAGER, SWIFT SECURITAS PVT. LTD., REGIONAL OFFICE AT: SCO - 15, 2ND & 3RD FLOOR, PHASE - 9, INDUSTRIAL AREA, FOCAL POINT, SAS NAGAR, MOHALI 160055 (PB.)
3. THE MANAGER, CENTRA MALL THROUGH PETAL MANAGEMENT SERVICES PVT. LTD., #177/D, INDUSTRIAL AREA - 1, CHANDIGARH - 160001. (Management)

AWARD

1. Reema Devi, workman has presented industrial dispute under Section 2A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*).

2. Briefly stated the averments of claim statement are that the workman was appointed as Security Guard on contract basis on 18.02.2017 in Centra Mall, Industrial Area, Phase - I, Chandigarh, which is operated by a Delhi based company namely M/s Petal Management - management No.3 through its Partner M/s Swift Securitas, Mohali (Punjab) - management No.2. Workman used to work for 8 hours on shift basis. Workman is entitled to provident fund, employees' state insurance and gratuity etc. The workman was receiving salary in her saving bank account maintained with State Bank of India, Sector 30, Chandigarh. The services of the workman were appreciated by the management due to her honesty, sincerity and hard work. There was no complaint against the workman. In July, 2017 when the workman was performing her duties, a Security Guard namely Rakesh shown her obnoxious contents on his mobile, to which workman resisted and warned him not to repeat the same and stopped talking with him. But Rakesh started taunting her and used to make mockery on various occasion but workman always avoided coming face to face with that Guard. After few months on 07.11.2017 the workman was again deployed with Rakesh. While performing her duties, said Rakesh again taunted and made mockery by shouting that he used to thrash women like her by throwing them on the floor, that too in front of Mr. Parveen, the Shift Supervisor. After this provocation, the workman slapped Rakesh but she could not narrate to anyone in her office the background of molestation incident already committed by him because of her dignity and personal shame involved. After the said incident, on 08.06.2018, the workman was deployed with one Vishal. On seeing her alone, he also started watching porn contents in front of her and told her to shut glass gate located next to upper basement lift. The workman refused to shut the glass door and landed into arguments with Vishal. The workman called Security Officer Dinesh deployed by Petal Management Services, New Delhi in Centra Mall, Chandigarh. The Petal Company looks after security, maintenance and house-keeping services at Central Mall, Chandigarh. Workman informed him about the incident and asked him to come immediately. However, Mr. Dinesh instead of coming personally at the

spot, sent another Security Guard namely Manoj to enquire about the incident. The workman explained to him that Vishal was bitterly arguing, misbehaving and harassing her. But at this time also, she could not narrate the incident of molestation to him. At that very moment when arguments were taking place, Vishal raised his hand to hit her and tried to thrash her in front of Manoj, whose struggled to keep hold of him. In self-defence the workman slapped Vishal. Immediately thereafter the workman was called upon by Mr. Thakur, Field Officer with Swift Securitas Private Limited and Mr. Verma, the Manager at Central Mall, deployed by Petal Management Services, New Delhi. The workman had explained everything to the Mall Manager. Mr. Verma told that he will check CCTV footage and warned whosoever would be at fault, would be removed from the job. After watching the CCTV footage, Mr. Verma - Manager of management No.3 suspended Vishal for one week but also told the workman not to come again on her duties from next day. Since the incident of watching porn contents on mobile phone by Vishal was not evident from the CCTV footage but slapping incident was clearly visible, taking cognizance of this fact, the workman was suspended and ordered not to come on duty from the next date. The order of suspension was oral and nothing in writing was given to the workman. The workman repeatedly insisted the Mall Manager again & again that there was no fault of her but he was not heard and thrown out of the job. Since then, the workman has been enduring continuous humiliation, mental torture, stigma, shame, insult, financial crises, physical agony, defamation of her name and dignity. On next day 09.06.2018 the workman went to Police Station, Industrial Area, Phase - I, Chandigarh and narrated the entire incident to *Hawaladar* Joginder, who summoned Dinesh and Thakur in the police station to enquire into the matter. Thereafter, *Hawaladar* held some meetings and deliberations with Dinesh and Thakur and finally both of them agreed and committed in police station they would reinstate the workman at some other place i.e. in Eden Hospital but not in Central Mall. Instead of punishing the Security Guards, the management decided to transfer the victim / workman to some other place. No FIR was registered at Police Station, Industrial Area, Phase - I, Chandigarh and no action was taken against the accused. The management of Swift company was affirmed and adamant to transfer the workman from Centra Mall to three different hospital locations in quick succession in order to hide their misdeeds instead of workman's reinstatement at her original post in Centra Mall. On merits of facts of the case deposed by her, 2 formal complaints filed on 14.08.2018 and 24.10.2019. Both the officers of the management backed out of their commitments and never asked the workman to join duty even in Eden Hospital as promised by them before Mr. Joginder Singh - *Hawaladar* in the Police Station. On 10.06.2018, the workman again went to Centra Mall and requested the officers of the management i.e. Petal Management Team including Mr. Verma - Manager Centra Mall, Mr. Ravinder - Maintenance Manager, Mr. Amit - Housekeeping Manager and Mr. Kochar - Fire Manager. The workman was sternly told by the management to immediately leave the Centra Mall and warned not to come again. The workman even cried before them stating that it was not her fault but she was forcibly thrown out of the gate by the Guards at the main gate of Centra Mall and the management instructed the Guards not to allow her inside the Centra Mall premises in future. In August, 2018, the workman came to know that one new Security Guard namely Arati has been appointed in her place in unjustified and unlawful manner by the management No.2. On 14.09.2018 the workman filed a written complaint drafted in Hindi through registered post to Home Secretary, DGP, DIG, SSP, SHO, Police Station Industrial Area, Phase - I, Chandigarh, CMD of management No.1, Col. B. K. Dhupar and two joint MDs of management No.1 at their New Delhi Office and Assistant Labour Commissioner, Chandigarh. Thereafter, workman was personally informed by the Police Officer to visit Mohali Head Office of management No.2 for sorting out the matter related to her job and afterwards the workman went to Mohali Head Office on 05.08.2018 and met Pawan - Manager of management No.3. On 05.10.2018 said Pawan fraudulently cheated her and in front of her illegally typed a fake letter in his computer with a back date of 18.09.2018 wherein it was stated that the workman was absent from her duty since 08.06.2018 and will be on 'No Work No Pay' for the absent period. He also forced her to sign the said letter with back date i.e. 19.09.2018 as she cannot read / write English, she signed the letter with the hope of something good for her. The letter was not handed over to her, however, she was able to take photo of said letter. The workman on being suspicious of their acts, also managed to record the entire conversation dated 05.10.2018 of Manager Pawan. The letter was typed and generated only to hide forcible suspension of the workman. This was fake letter and completely forged and fraudulent act covered under Section 420 IPC. The said Pawan openly implicated the workman by wholly misrepresenting that she was sitting home on her own after 18.06.2018 whereas actually it was Verma - Manager, management No.3 and Thakur - Field Officer, management No.2

have forcibly suspended the workman from her job on 08.06.2018 after the molestation incidents, just to safeguard the reputation of the management companies. Letter / notice dated 18.09.2018 from Swift Securitas mentioned that the workman was absent from duty since 08.06.2018 and directed to report the office of management within three days after receiving the said notice and also that the workman was not entitled for wages during the absent period from her service on the basis of norm 'No Work No Pay'. On 05.10.2018 Mr. Pawan of management No.3 also promised and assured the workman that he will certainly and definitely reinstate her to original post at Centra Mall after a break of one month but on the condition that she has to work initially in the Mukat Hospital, Sector 34, Chandigarh. He also stated that there is no vacancy in Centra Mall at present whereas back door entry of Arati as Security Guard was already made within two months after workman's forcible suspension. The workman was forcibly suspended without conducting legal prescribed process consisting of formal inquiry, show cause notice, accompanied by charge sheet and without formally appointing any Inquiry Officer, in disregard to service laws, principle of natural justice, equity and transparency. The workman again made representation dated 24.10.2018 to the Home Secretary, Chandigarh with copy to Commissioner Labour, Chandigarh (DC), Assistant Labour Commissioner, Chandigarh and DGP, DIG, SSP, SHO, Industrial Area, Phase - I, Chandigarh, CMD Col. B. K. Dhupar, Joint MD Nitika Khanduri and Joint MD Nitin Dhupar of Swift Securitas Pvt. Ltd. The workman time & again requested the various authorities of Police, Labour Department and officials of the Swift company management but to no avail. On 10th November, 2018, the workman received a letter dated 01.11.2018 in continuation to their fake letter dated 18.09.2018 from management No.2 i.e. Swift Securitas Pvt. Ltd. through registered post wherein the Company asked the Workwoman to report at Max Hospital, Phase - 6, Mohali which is more than 13 kilometers away from her residence. This letter was posted on 9th November 2018 but surprisingly it bears a back date of 1st November, 2018, from which it is evident that the letter was drafted on 8th or 9th November 2018 itself and afterwards back date was put upon it to justify its reasoning to workman that she has been not obeying the company instructions and is continuously absenting from her duty and management is once again giving her last opportunity to join at Max Hospital, Phase - 6, Mohali otherwise it will be presumed that the workman do not want to serve the company any more. In response to the above said letter dated 01.11.2018 received at her residence on dated 10.11.2018; the workman approached the Management of Swift Securitas at Max Hospital, Mohali i.e. management No. 2 and submitted a joining letter on 13th Nov, 2018. The workman requested the management of Swift Securitas at Max Hospital for the grant of leave for 10 days as her younger son was suffering of high fever and was not well. But she was presumed to be absent from her duties and was not allowed to join her duties and to come to office by the management. The workman is without work and pay since 8th June, 2018. The workman is unable to manage her family and house without salary and she has no other source of income. The workman and her husband were forced to take another loan of ₹ 1,50,000/- to meet the financial crisis caused due to her suspension from the job. The workman has been continuously suffering huge financial losses due to the inaction of the Swift Company in re-instating her in original post of Security Guard at Centra Mall. She was illegally removed from her post by Mr. Verma, the Manager, Centra Mall deployed by the Petal Management Services and Swift Company's Field Officer. From 8th June, 2018 i.e. since the illegal suspension of the workman from her service, she has not been paid any suspension salary, arrears and any perks from the Swift Securitas Company which led to her misery in managing her family from day to day and other obligations. The workman is facing all these hostile circumstances leading to exploitation and harassment of every family member for small things only due to the intentional, mala fide and cruel conduct of all the above-mentioned persons. Her employment from the Swift Company was suspended without any show-cause notice, charge-sheet, formal enquiry, without any notice, without any suspension letter and without following any prescribed legal process as laid down in the ID Act. The nature of duty / work which the workman was doing is permanent in nature and is still in progress as the Petal management and Swift Company are taking the same duty from other Security Guards being deployed in Centra Mall premises from the year 2008 onwards. While suspending the services of the workman, the management has violated the provisions of Section 25G and 25H of the ID Act as a new security guard namely Arti was appointed in her place. Later on, Urmila was appointed at the same post. Presently another Guard named Madhuri has replaced her. Action of the management in terminating her services is wholly illegal and opposed to the provisions of the ID Act, other service laws and the principle of natural justice, equity, fair play and

transparency. Aggrieved by the inactions and false assurances given by the managements, the workman was left with no alternate other than to approach this Court. It is well settled law that the services of any employee cannot be terminated without one month's prior show-cause notice. While terminating the services of the workman, no notice or notice pay in lieu of notice and retrenchment compensation as provided under Section 25F of the ID Act was given to her. No charge-sheet was issued nor any inquiry was held against her before her illegal termination despite the fact that the workman has completed long time of regular service with the management which is illegal, null and void in the eyes of law and natural justice. The workman is entitled for reinstatement with full back wages, continuity of service and other consequential relief or can be paid some considerable amount as the management has violated the provisions of Section 25G and 25H of the ID Act without affording an opportunity of re-employment to her in sheer violation of ID Act, thus her termination is totally null, void, illegal and unjustified. The workman was not issued any appointment letter, thus there were no terms and conditions of her appointment. The workman used to discharge her services as a Security Guard and was receiving her salary directly from management. An order of termination of service passed orally/verbally is highly arbitrary act on the part of the authorities. It is a settled law that the right of livelihood is a fundamental right guaranteed under Article 21 of the Constitution of India. It is also settled law that in case the authorities pass an order affecting a person's civil right or right to livelihood, they have to act clearly and in a reasonable manner. The termination of the services of the employee by an oral order is a feudalistic approach and does not get sanction from our Constitution. There is evidence on record to indicate that the workman was working for more than two years with the management. An oral order or instructions passed by the authority terminating the services of an employee is arbitrary, unjust and improper act, and would be hit by Article 14 of the Constitution of India. The procedure to terminate the service by an oral order or instructions cannot be approved under our Constitutional frame and such practice is highly objectionable and deprecated in the strongest of the words. Reliance is placed upon case titled as *Mukundbhai Mangaldas Shrivasthi Vs. State of Gujarat* decided on 30th June 2016 (complete citation not mentioned), *Birla Cotsyn (India) Ltd. Versus Tarachand* decided on 26th August, 2010 (complete citation not mentioned). Prayer is made that the workman may be reinstated with full back wages. The workman may be paid damages to the tune of ₹10,00,000/- along with interest @24% till date from her appointment along with cost with litigation expenses.

3. On notice, management No.1 & 2 appeared through Representative Shri Dinesh Goel and contested the claim statement by filing joint written statement dated 18.08.2021 wherein preliminary objections are raised on the ground that there is no termination of the services of Smt. Reema Devi (*here-in-after 'workman'*) by the management but she has herself abandoned the employment w.e.f. 08.06.2018. The workman has not joined the duties where she was directed by the management to join the duties. The demand notice / statement of claim has been raised by invoking Section 2A of the ID Act. Since there is no termination of her services, thus the question of entertain the present case does not arise. The said provision can be invoked only if there is termination of services of the employee. The entire details and story given by the workman is not relevant although she was appointed by the management as a Security Guard to be placed at the establishment of their clients / principal employer. The workman was accordingly posted at Centra Mall, Industrial Area, Phase - I, Chandigarh. Due to the reason of being involved in various cases, the principal employer has decided not to retain her in their establishment. She was, therefore, vide letter dated 18.09.2018 followed by another letter dated 01.11.2018 directed to report at Branch Office of the management for further posting but she did not report at the establishment and had started absenting un-authorisedly without notice and permission. The management has sent various notices and reminders which are received by her, still she neither responded to the same nor had reported for duty. It is, therefore, clear that she has no interest to continue in the employment and thus voluntarily abandoned the employment. The workman cannot direct the management to post her or provide duties at any place of her choice. The management is legally empowered to keeping the workman at any place where they feel the requirement or necessity to place her. The establishment where she is seeking to be kept does not belong to the management and the management depends upon the discretion of the principal employer. The place of employment i.e. Centra Mall is no longer the site with the management as the contract between the management and said mall have been terminated and the employment at the said establishment is not available with the management. However, the management reiterate that the workman can approach the office of management and she shall be provided employment at the place where she can be

adjusted in the new sites. The workman is not unemployed rather she had taken employment with some other establishment and has raised the present dispute merely to harass the management and extort money. The workman clearly understands and note that two addressee managements are separate establishments having their different management. The answering management is also a contractor providing security services which was under the contract from Petal Management Service and the same having terminated, render the claims to be dismissed. Moreover, it is not addressed as to against whom the claim is being maintained. Therefore, the claim being vague is liable to be dismissed.

4. Further on merits, it is stated that the appointment of the workman on 18.02.2017 as Security Guard on contract basis is a matter of record. The workman was provided all the legal benefits to which he was entitled. It is further stated that the principal employer refused to employ the erring workman including Smt. Reema Devi in their establishment and as such the management had offered her to join the duty at some other place subject to other factors, she refused and did not join the management and started absenting voluntarily w.e.f. 08.06.2018. The workman has herself submitted that her principal employer had directed her not to continue in the establishment and therefore, she was directed by the answering management to join the duties at some other place to which she did not comply. The workman's presence in the establishment was not desired by the principal employer. The management had to succumb and directed to place her to some other place. The management has always offered her alternative job which she did not take her place. However, her replacement was sought by the principal employer and the same was provided. The workman did not report for duty despite receipt of notice dated 18.09.2018. Shri Pawan had only assured her to provide a job in an alternative position which she did not accept. The allegations levelled by the workman in para 25 of the claim statement are highly defamatory and clearly shows the approach and attitude of the workman, threatening the management and making false allegations which clearly warrant that her presence in any establishment shall be detrimental to the interest of the organisation as well as reputation and discipline of the company and employees. It is confirmed by the workman that the management had provided her with alternative job. It is admitted by the workman that she was provided with alternative job but she herself did not accept the same. The entire contents of para 32 onwards are frivolous and irrelevant submissions. The workman has raised contradictory submissions of false stating to have been suspended and on the other hand is claiming violation of Section 25G & 25H of the ID Act. If there is a suspension then Section 2A of the ID Act is not attracted. Even otherwise, the entire claim is false and the relief claimed is not maintainable and denied. Rest of the averments of claim statement are denied as wrong and prayer is made that the claim statement may be dismissed.

5. The management No.3 appeared through Representative Shri Sanjeev Verma and contested the claim statement by filing written statement on 04.03.2021 wherein it is stated that there is no termination of services of Smt. Reema Devi by the Petal Management Services Pvt. Ltd. Moreover, Smt. Reema Devi was not on Petal's pay rolls, she was employee of Swift Securitas (*wrongly spelled as 'Swift Securities'*) Pvt. Ltd. She was only deployed by the Swift Securitas and performed duty at Centra Mall. Petal Management Services Pvt. Ltd. allotted contract as being principal employer to Swift Securitas Pvt. Ltd. to provide security manpower to Petal Management Services Pvt. Ltd., so Swift Securitas Pvt. Ltd. provided manpower to the answering management. According to contract Swift Securitas Pvt. Ltd. paid salary to all the Security Guards posted at the Centra Mall. All other facilities like EPF, ESIC etc. are also responsibilities of Swift Securitas Pvt. Ltd. Smt. Reema Devi created gross in-discipline two times. On one incident she slapped on the face of Guard Rakesh Kumar and she was warned by the management. Then she assured to the management that she will not do such in-discipline in future again but ignoring all this she again slapped Guard Vishal. After that management informed the whole matter to the Swift Securitas Pvt. Ltd. to take suitable action so accordingly Swift Securitas Pvt. Ltd. transferred her to other place for duty. It is further stated that other points raised by the workman are not related to the answering management.

6. On 14.03.2022, workman filed replication to the joint written statement of management No.1 & 2 and on 18.08.2021 workman filed separate replication to the written statement of management No.3,

wherein the workman denied the entire contents of the written statements except admitted facts and averments of claim statement are reiterated.

7. From the pleadings of the parties, following issues were framed vide order dated 14.03.2022 :-

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief she is entitled to, if any ? OPW
2. Whether there exists no employer-employee relationship between management No.3 and workman ? OPM-3
3. Relief.

8. In evidence workman Reema Devi examined herself as AW1 and tendered her affidavit Exhibit 'AW1/A' along with documents Exhibit 'W1' to Exhibit 'W3', Exhibit 'W3/1' to Exhibit 'W3/8', Exhibit 'W4', Exhibit 'W5', Exhibit 'W5/1' to Exhibit 'W5/6', Exhibit 'W6' to Exhibit 'W8', Exhibit 'W8/1', Exhibit 'W9' and Exhibit 'W9/1'.

Exhibit 'W1' is photocopy of identity card of Reema Devi issued by Swift Securitas Pvt. Ltd. (date of issue 09.05.2018).

Exhibit 'W2' is statement of account for the period w.e.f 18.02.2016 to 08.06.2018 of Account No. 55151716035 maintained with State Bank of India, Branch Sector 30, Chandigarh.

Exhibit 'W3' is photocopy of complaint dated 14.09.2018 moved by Reema Devi to SHO, P. S. Industrial Area, Phase - 1, Chandigarh through registered post.

Exhibit 'W3/1' to Exhibit 'W3/8' are original postal receipts dated 15.09.2018.

Exhibit 'W4' is photocopy of notice dated 18.09.2018 issued to Reema Devi by the Securitas Pvt. Ltd. on the subject of notice for remaining absent from duty.

Exhibit W5' is photocopy of complaint dated 24.10.2018 filed by Reema Devi to Home Secretary, U.T, Chandigarh through registered post.

Exhibit 'W5/1' to Exhibit 'W5/6' are original postal receipts dated 26.10.2018.

Exhibit 'W6' is photocopy of letter dated 01.11.2018 issued by Swift Securitas Pvt. Ltd. to Reema Devi on the subject of absent from duties.

Exhibit 'W7' is photocopy of reply dated 13.11.2018 filed by Reema Devi to management's letter dated 01.11.2018.

Exhibit 'W8' is photocopy of letter dated 20.06.2019 moved by Reema Devi to Home Secretary, U.T, Chandigarh seeking reinstatement.

Exhibit 'W8/1' is photocopy of acknowledgement issued by Chandigarh Police Complaint Tracking System with regard to the complaint lodged by Reema Devi against Manager Swift Securitas alleging harassment, vide reference No. PW201911213 dated 20.06.2019.

Exhibit 'W9' is photocopy of letter dated 09.07.2019 moved by Reema Devi to SSP, Chandigarh Police, Headquarters, Chandigarh on the subject of replacement of complaint statement due to typing and other defects.

Exhibit 'W9/1' is photocopy of acknowledgement issued by Chandigarh Police Complaint Tracking System with regard to the complaint lodged by Reema Devi against Manager Swift Securitas alleging harassment, vide reference No. PW201912497 dated 09.07.2019.

9. Workman examined AW2 Reshma Devi, who tendered her affidavit Exhibit 'AW2/A'.

10. On 19.03.2024 Learned Representative for the workman closed evidence in affirmative.

11. It is pertinent to mention here that at the stage of recording cross-examination of AW1 Reema Devi, management No.3 stopped appearing. Vide order dated 14.12.2022 management No.3 was proceeded against ex-parte due to non-appearance.

12. On the other hand, management No.1 & 2 examined MW1 Desh Raj, who tendered his affidavit Exhibit 'MW1/A' along with documents Exhibit 'M1' to Exhibit 'M5' (Documents mentioned as Exhibit 'R1' to Exhibit 'R6' are hereby renumbered as Exhibit 'M1' to Exhibit 'M5').

Exhibit 'M1' is original of notice dated 18.09.2018 sent to the workman.

Exhibit 'M2' is postal receipt dated 25.09.2018.

Exhibit 'M3' is copy of notice dated 01.11.2018 sent to the workman.

Exhibit 'M3/1' is postal receipt dated 08.11.2018.

Exhibit 'M4' is authority letter dated 06.04.2024 issued in favour of Desh Raj.

Exhibit 'M5' is copy of identity card of Desh Raj Thakur.

13. On 20.08.2024 Learned Representative for the management No.1 & 2 closed oral evidence and on 18.09.2020 Learned Representative for management No.1 & 2 closed documentary evidence.

14. I have heard the arguments of Learned Representatives for the parties and perused the judicial file. My issue-wise findings are as below :-

Issues No. 1 & 2 :

15. Both these issues are taken up together being interconnected and to avoid repetition of discussion.

16. Onus to prove issue No.1 is on the workman and onus to prove issue No.2 is on the management No.3.

17. Under this issue workman Reema Devi examined herself as AW1 vide her affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto which are not reproduced here for the sake of brevity. AW1 supported her oral version with documents Exhibit 'W1' to Exhibit 'W9', Exhibit 'W8/1' to Exhibit 'W9/1'.

18. For corroboration workman examined AW2 Reshma Devi W/o Rama Shanker R/o Gujjar Colony, Pari Chowk, Noida, U.P, who vide her affidavit Exhibit 'AW2/A' deposed that she is aware about the incident which happened with Reema. She also knows Thakur sir. She went to meet Thakur sir along with Reema for her job. Reema has joined her job on 18.02.2017 and further removed from her job on 08.06.2018. AW2 further deposed that she is aware about the incident when Reema was performing her duty with one Guard namely Vishal. Vishal was watching obnoxious / adult movies on his mobile phone and also tried to show these scenes to Reema. Reema did not like that but stayed calm and was busy in performing her duty. On this Vishal got angry and came to Reema and asked her to get up from chair on which she was sitting and pulled the chair from her, he further sat on it. Reema told Vishal that he is watching adult movies on his mobile phone during service hours and also asking her to watch the same forcefully. Vishal also asked Reema to close glass door which she refused by saying that there are customers in the Mall and she cannot shut the glass door as she has to perform her duty. Reema also advised Vishal to stop watching obnoxious movies on his mobile phone and perform his duty. On this Vishal got angry and told that he will watch the same on his mobile phone and she cannot stop him for doing so. On this Reema warned Vishal that she will inform the Security Officer about this but Vishal threatened her that he will slap her and raised his hand to slap Reema. On this Reema for her

defence also raised her hand. On hearing about the fight between Reema and Vishal someone informed the senior officer on the ground floor gate. Then one Manoj came there and caught hold of Vishal who was forcibly trying to slap Reema and took away Vishal to outer gate of the mall. After this incident, Thakur sir arrived at the gate and called Reema. Someone in the Mall informed Verma Sir about the incident of fight between Vishal and Reema. Verma sir came out of the office where Thakur sir after seeing Reema asked her to leave the Mall and also told her not to come on duty from next day but he did not say anything to Vishal rather asked him to go back to his duty. Thakur sir and Verma sir did not ask anything from Reema about the incident happened at that time with her on the duty but asked her not to come again on her duty in spite of her repeated requests. After this, Reema returned home crying and narrated the whole incident to her (AW2) and her husband. AW2 further deposed that on 09.06.2018, Reema again went to meet Thakur sir and apologized for the last night incident but Thakur sir said that Verma sir is the owner of the company; she shall request him for her job. On this Reema went to Verma sir but Verma sir again told that Thakur sir is the boss go to him and request him for your job. After this, Verma sir asked Surender Guard to throw Reema out of the mall and do not let her come inside the mall again. Reema cried and requested many times Verma sir and Thakur sir to keep her back on job but no one paid any heed to her requests. Reema was continuously crying and requesting them but they did not allow her to join her duty again rather they asked Surender Guard to throw her out of the mall and also warned him not to allow her enter the mall again in future. On this Reema said to Verma sir that she will file a case for her reinstatement on which Verma sir threatened her and told that she can do whatever she wants, he will not take her back on her job. She (AW2) went to meet Verma sir and requested him to re-appoint Reema but he did not listen to her and asked her to leave the premises immediately. Thereafter, Thakur sir called her (AW2) on telephone and asked her to join on Reema's post, but she again requested to take back Reema on her post because she is a poor lady and facing financial hardships. On hearing this Thakur sir told that he will not take back Reema at any cost but she (AW2) can come if she wants to join in place of Reema Devi. She denied to join in place of Reema and told Thakur sir that there is no fault of Reema and again requested to take back Reema on her job. AW2 further deposed that after her removal from the job, Reema went to the police station and narrated the whole incident before the police officer, after hearing this the police officer called Thakur sir to police station and advised him to give her one more chance and take her back on her service. Thereafter, Thakur sir said that he will take her back on her job but she will be posted to other place in Eden Hospital. When Reema went to the office, she requested Thakur sir for her job. Thakur sir started laughing and told Reema that he did not say anything as such to keep Reema back to her job and clearly denied to take back on job at any place because Verma sir has given clear instructions not to take Reema back on job. AW2 further deposed that it is clearly evident from the above-mentioned facts and circumstances, that the above-mentioned staff members of M/s Swift Securitas i.e. Thakur Sir, Verma Sir and Vishal Guard are intentionally harassing Reema for no fault of her and she repeatedly begged and cried for her job in front of all the above-mentioned staff members. After few months Reema failed to get her job and she also came to know that another lady Security Guard has been appointed in her place in the month of August. The above-mentioned persons are involved in financial embezzlement and they act as per their wish and cheat people on the basis of providing them job. They use to remove and select the people on the job as and when they want.

19. On the other hand, management No. 1 & 2 examined MW1 Desh Raj who vide his affidavit Exhibit 'MW1/A' deposed all the material content of their written statement and which are not reproduced here in order to avoid repetition. MW1 supported his oral version with documents Exhibit 'M1' to Exhibit 'M5'.

20. From the oral as well as documentary evidence led by the parties it comes out that management No. 3 - Petal Management Services Pvt. Ltd. allotted contract to Swift Securitas Pvt. Ltd. having corporate office at New Delhi (management No.1) and Regional Office at Mohali (management No.2), to provide security manpower to Management No. 3. Accordingly, M/s Swift Securitas Pvt. Ltd. is the contractor and Petal Management Services Pvt. Ltd. is the principal employer. The contractor - management No.1 & 2 under a contract with management No.3, deployed workman Reema Devi as Security Guard at Centra Mall, Chandigarh (client of management No. 3) w.e.f 18.02.2017 and workman remained in continuous employment up to 08.06.2018. There is no relationship of employer-employee between the management No.3 and the

workman. Workman has alleged that during tenure of her services three incidents took place.

1st Incident of Jul 2017:- Allegedly in July 2017 when workman who performing her duties at Centra Mall, Chandigarh, Co-worker/ Security Guard Rakesh started watching porn stuffs on his mobile and tried to show her the same, to which workman resisted and warned him no to repeat such act in future and there after she stopped talking to Rakesh. Admittedly the workman did not narrate this incident to any one because of her personal dignity and out of shame.

2nd Incident dated 07.11.2017:- Workman was deployed with co-worker Rakesh who taunted her. In the presence of Mr. Parveen - Staff Supervisor, Rakesh uttered that he used to thrash woman like her by throwing on the floor. On provocation, she (workman) slapped Rakesh. Admittedly, the workman did not narrate the incident to anyone because of her personal dignity and out of shame.

3rd Incident dated 08.06.2018:- Workman was deployed with co-worker Vishal. Finding her alone, Vishal started watching porn stuffs and asked her to shut the glass gate located next to upper basement lift. On workman's refusal, Vishal and workman entered into arguments. Workman immediately called Mr. Dinesh, Security Officer, Centra Mall and informed him about the incident. Mr. Dinesh did not come personally to the spot but send Manoj - other Security Guard to enquire in the matter. Workman explained Mr. Manoj about the arguments exchanged between them but admittedly did not narrate the occurrence of molestation to him. In the presence of Mr. Manoj, Vishal raises his hand and tried to hit workman, Reema Devi. In self-defence Reema Devi slapped Vishal. Thereafter, workman was immediately called upon by Mr. Thakur - Field Officer, Swift Securitas, Mr. Verma - Manager, Centra Mall. Reema Devi narrate the whole incident to Mr. Verma, who told that he will check the CCTV footage and the worker at fault will be removed from services. The workman further alleged that after watching CCTV footage, Mr. Verma suspended Vishal for one week and told her (workman) not to come on duty. On next day dated 09.06.2018 workman lodged Police Complaint. The police Inquiry Officer Hawaldar Joginder - P. S., Industrial Area, Phase - I, Chandigarh joined Dinesh - Security Officer and Thakur (Field Officer) in inquiry and finally they agreed to reinstate the workman at another location i.e. Eden Hospital, Centra Mall. Grievance of the workman is that instead of punishing the alleged offender, she victim of the crime is transferred to some other place. Neither any FIR was registered nor any action was taken by the police against Vishal.

21. The alleged incident of July, 2017, 07.11.2017 and 08.06.2018 are denied by the management No. 1 & 2 (Swift Securitas). Workman/ AW1 has also failed to prove the alleged three incidents. Testimony of AW2 Reshma Devi is of no help to the workman for the reasons that Reshma Devi at no point of time was either employed at Centra Mall, Chandigarh or was present at the spot when alleged incidents took place. Version of AW2 in her affidavit Exhibit 'AW2/A' that she is aware about the incident which happened with Reema Devi, is non-trustworthy because it is own stand / plea of workman that she did not narrate the incident of July, 2017 and 07.11.2017 to anyone because of her personal dignity and out of shame. In the entire claim statement, workman nowhere stated that any of the incident took place in the presence of Reshma Devi W/o Rama Shanker. Moreover, there was no occasion for Reshma Devi to be present at the spot when alleged occurrence took place. AW2 when put to cross-examination stated that presently she is not doing any job. She is a house maker. Previously, she has done job in Eden Hospital, Industrial Area, Phase-I, Chandigarh for 6 months in the year 2016 and then for 08 months the year 2022. Except Eden Hospital she did not work anywhere. In her cross-examination AW2 further admitted as correct that she was not working with Reema Devi either in the Eden Hospital or in any other organization or company. She has no relation with workman Reema Devi. She is known to her being resident of her native village. AW2 admitted as correct that she is not an eye-witness to the occurrence dated 08.06.2018. AW2 stated that she cannot tell the name of persons who informed her that alleged occurrence took place with Reema Devi. AW2 stated that she never accompanied Reema Devi to any Police Station to lodge complaint. AW2 further stated that till date she did not get recorded

any written statement before any authority in favour of Reema Devi. The aforesaid version of AW2 would prove that testimony of AW2 is based on hearsay which is inadmissible into evidence.

22. Moreover, workman neither placed on record the copy of complaint allegedly lodged by her on 09.06.2018 with Police Station, Industrial Area, Phase-I, Chandigarh, nor summoned any Police record of alleged complaint dated 09.06.2018. Complaint Exhibit 'W3' is of dated 14.09.2018, complaint Exhibit 'W5' is of dated 24.10.2018, letter Exhibit 'W8' along with its receipt issue by Chandigarh Police Complaint tracking system Exhibit 'W8/1' are of dated 20.06.2018, complaint Exhibit 'W9' along with its receipt issued by Chandigarh Police complaint tracking system is Exhibit 'W9/1' are of dated 09.07.2019. The complaints / letters Exhibit 'W3' to Exhibit 'W9' are issued much later to alleged occurrence dated 08.06.2018 and subsequently to alleged complaint dated 09.06.2018 to Police. In the demand notice workman alleged that she is in possession of recording dated 05.10.2018 of alleged conversation of Mr. Pawan - Manager, with the workman and video recording of conversation dated 09.10.2018 between workman and Manager of management No.3 and Audio recording of workman with Mr. Chauhan, topmost official of management No.3 and one more recording of Bimal Security Guard of management No. 2 who was allegedly thrashed and slapped by Mr. Rakesh. But, no such alleged audio or video recording is provided into evidence by the workman. Workman has further alleged that CCTV footage of alleged occurrence dated 08.06.2018 has been deleted. AW1 in her cross examination stated that she has not placed on record any CCTV footage of alleged occurrence with Rakesh Kumar or Vishal and voluntarily stated that one Sanjay Verma - Field Officer deleted the CCTV footage. To my opinion, the aforesaid voluntarily statement of AW1 is not believable as she did not complaint to any competent authority. In this regard, AW1 in her cross-examination stated that she has not filed any complaint against Sanjay Verma - Field Officer alleging that he deleted the CCTV recording. From all the facts and circumstances mentioned above possibility of the complaints Exhibit 'W3', Exhibit 'W5', Exhibit 'W8' and Exhibit 'W9' being false cannot be ruled and raises serious doubt on the truthfulness of workman's version about alleged occurrences of July, 2017, 07.11.2017 and 08.06.2018.

23. Undisputedly, the workman remained in continuous employment of management No.1 & 2 - contract, (deployed as Security Guard at Centra Mall, Chandigarh.) from 18.02.2017 to 08.06.2018. The workman is proved to have complete continuous service of 240 days in 12 calendar months preceding termination. This workman falls within the definition of continuous employment under Section 25B of ID Act. Once the workman fulfills the requirement of Section 25B of ID Act, the provision of Section 25F, of the ID Act is attracted, which lays down conditions that an employer must comply, on the retrenchment of service of the workmen.

24. Learned Representative of the workman argued the services of the workman are terminated w.e.f 08.06.2018, without following the mandate of Section 25F of the ID Act. On the other hand, Learned Representative of the management No.1 & 2 argued that workman abandoned the job herself w.e.f 08.06.2018. Learned Representative for the management No. 1 & 2 further argued that workman was involved in various cases, the principal employer - management No.3 decided not to retain her in their establishment. First, the workman was verbally offered to report at Eden Hospital, Chandigarh where she did not join. Thereafter vide letter dated 18.09.2018 followed by another letter dated 01.11.2018, the workman was directed to report at the Branch Office of the management but she did not report and absented. The aforesaid arguments advanced by Management No. 1 & 2 carries weight because, AW1 when put to cross examination admitted as correct that in July 2017, she had slapped Rakesh Kumar, Security Guard at Centra Mall, Chandigarh and she had not filed any written complaint against Rakesh Kumar to any authority. AW1 admitted as correct that in June 2018, she had given beatings to Vishal an account of dispute. AW1 stated that she has not made any written complaint against Vishal to any authority. The aforesaid version to AW1 would suggest that her own conduct was not good. In case, co-worker Rakesh Kumar and Vishal had committed any illegal act with her, she would have reported the incident immediately to the management and police. But no such action was taken by her. Moreover, the alleged allegations levelled by the workman attracts penal consequences and this Court is not vested with any powers to deal with the same. The misconduct of the workman justifies the action of contractor to transfer the workman to other location. AW1 in her cross examination admitted the receipt the letters dated 18.09.2018 and 01.11.2018, whereby she was asked to join and alternate job in a company at Mohali in Max Hospital. The relevant portion of cross-examination of AW1 is reproduced as below :-

"I have seen copy of letter dated 18.09.2018 addressed to me by the authorised signatory of Swift Securitas Pvt. Ltd. which is Exhibit M-1. I identify my signature at

Point-X of Exhibit M-1.It is correct that I had received letter dated 01.11.2018 through registered post which is Exhibit M-2."

25. The aforesaid version of AW1 would support the plea of management No.1 & 2 that the workman was offered alternative job. Further the plea taken in the management No. 1 & 2 the workman despite offer issued vide letter Exhibit 'M1' and Exhibit 'M2' did not report and join duties at the Max Hospital, Mohali stand proved cross-examination of AW1 wherein she voluntarily stated that Mohali was at a distance and she was offered less salary in the sum of ₹ 10,000 along with ₹ 400/- as travelling expenses. Again said, ₹ 400/- was her expenditure to commute to & fro Mohali. Workman AW1 in her cross-examination stated that Max Hospital is at distance of more than 13 km from her home. In view of her aforesaid version the workman's plea that she was offered alternative job at a distant place in proved unjustified. Earlier the workman employed at Centra Mall, Chandigarh and then offered to join at Max Hospital, Mohali which is part of tricity-Chandigarh-Mohali-Panchkula, which cannot be considered as distance place. The workman's refusal to join at Max Hospital on the ground of less salary is also unjustified. AW1 in cross examination statement that she was offered salary of ₹ 10,000/- plus ₹ 400/- as travelling expenses for job at Max Hospital. AW1 stated that she was getting monthly salary of ₹ 7,000/- at Centra Mall. The workman's plea in the cross examination that her actual salary at Centra Mall was ₹ 9,000/- per month but the management used to misappropriate ₹ 2,000/- per month from her monthly salary is not only beyond pleadings but also without any basis, thus is not acceptable. AW1 in her cross-examination admitted as correct that she had received letter dated 13.11.2018 / Exhibit 'W7' on the basis of which she went to Max Hospital and joined duty. AW1 further stated that she went to Max Hospital to join duty but she told that she cannot do duty at Max Hospital. The foresaid version of AW1 would prove that she had no intention to join alternate duty at Max Hospital. Above all in the claim statement the workman has taken a different stand for not joining duty at alternative location Max Hospital, Mohali. In para 27 of claim statement the workman pleaded that she submitted joining letter on 13.11.2018 and requested the management of Swift Securitas and Max Hospital to grant her leave for 10 days as her younger son is suffering from high fever and was unwell. From the version of AW1 in her cross examination referred above, it is proved that workman had willfully abandoned her job by refusing to accept the alternative posting at the Max Hospital, Mohali, on higher salary, not involving any special training or technical know-how. Her conduct would constitute a voluntary abandonment of service on as she herself declined to accept alternative job offer on unreasonable grounds. Thus, Section 25F of the ID Act is not attracted.

26. The issue No.2 was not pressed during course of arguments as at the stage of arguments management No.3 was already ex-parte. However, as discussed above, there is no relationship of employer-employee between the management No.3 and the workman.

27. Accordingly, issue No.1 is decided against the workman and in favour of the managements. Issue No.2 is decided in favour of the management No.3 and against the workman.

Relief :

28. In the view of foregoing findings on the issues above, the present industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

(Sd.) . . . ,

Dated : 18.09.2024.

(JAGDEEP KAUR VIRK),
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152

Secretary Labour,
Chandigarh Administration.

CHANDIGARH ADMINISTRATION
DEPARTMENT OF MEDICAL EDUCATION AND RESEARCH

NOTIFICATION

The 5th December, 2024

No. 2024/44741.— In exercise of the powers conferred by the proviso to article 309 of the Constitution of India read with the Government of India, Ministry of Home Affairs, Notification S.O. No. 3267, dated 1st November, 1966, the Administrator, Union Territory, Chandigarh is pleased to make the following rules, regulating the method of recruitment to Group 'C' posts i.e. **Incinerator Supervisor (Non-Ministerial)** in the Government Medical College and Hospital, Chandigarh, namely :-

1. **Short title and commencement:-** (i) These rules may be called the Government Medical College and Hospital, Chandigarh (Group-C) (Non-Ministerial) Recruitment Rules, 2024.
(ii) They shall come into force on the date of their publication in the Official Gazette.
2. **Application:**
These rules shall apply to the posts specified in column No.1 of the Schedule annexed to these rules.
3. **Number of posts, classification and scale of pay:-**
The number of posts, their classification and the scales of pay shall be as specified in columns 2 to 4 of the said Schedule.
4. **Method of recruitment, age limit and qualification, etc:-**
The method of recruitment to the said posts, age limit, qualifications and other matters connected therewith shall be as specified in columns 5 to 13 of the said Schedule.
5. **Disqualification: No person:**
 - (a) who has entered into or contracted a marriage with a person having a spouse living;
OR
 - (b) who, having a spouse living, has entered into or contracted a marriage, with any person, shall be eligible for the appointment to the said posts:

Provided that the Administrator, Union Territory of Chandigarh may, if satisfied that such marriage is permissible under the personal Law applicable to such person and other party to the marriage and there are other grounds for so doing, exempt, any person from the operation of this rule.
6. **Power to relax:-**
Where the Administrator, Union Territory, Chandigarh is of the opinion that it is necessary or expedient so to do, he may, by order, for reasons to be recorded in writing, relax any of the provisions of these rules in respect of any class or category of persons.
7. **Savings:-**
Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for Scheduled Castes, Scheduled Tribes, Other Backward Classes, Ex-Servicemen and other special categories of persons in accordance with the orders issued by Central Government from time to time in this regard.
8. **Repeal:-**
The Government Medical College and Hospital, Chandigarh (Group-C) (Non Ministerial), Recruitment Rules, 2014 notified vide notification No.2/38-FII(6)/2014/8619, dated 10.10.2014, further amended vide notification No. 3039, dated 22.01.2021 in respect of the post of Incinerator Supervisor only are hereby repealed.

Secretary MER
Chandigarh Administration

ANNEXURE-I

1	Name of the Post	Incinerator Supervisor
2	No. of Post	02* (2024) * Subject to variation dependent on workload
3	Classification	General Central Services, Group 'C' Non-Gazetted/ Non-Ministerial
4	Pay Band and Grade Pay/Pay Scale	Level 5 (Rs.29200 -92300) in the Pay Matrix of 7th CPC
5	Whether selection post or non-selection post.	Not applicable
6	Age limit for direct recruits	Between 18 years and 25 years (The upper age limit is relaxable for departmental candidates up to 40 years in accordance with instructions or orders issued by Central Government) Note: The crucial date for determining the age limit shall be the closing date for receipt of applications from candidates in India and not closing date prescribed for those in Assam, Meghalaya, Arunachal Pradesh, Mizoram, Manipur, Nagaland, Tripura, Sikkim, Ladakh, Lahaul & Spiti District and Pangi Sub-division of Himachal Pradesh, Andaman & Nicobar Islands or Lakshadweep.
7	Educational and other qualifications required for Direct recruits	Diploma in Sanitary Inspector Course from a recognized University / Institution minimum three years experience in related field in a Govt. Organization / Board/ Corporation/ PSU/ 50 bedded hospital. Note: The direct recruits have to submit the certificate of training in Information Communications Technology (ICT) Skills of 80 hours at the time of their appointment, as per instructions issued by Chandigarh Administration Vide No. 28/69-IH(12)/Pers. & Trg.-2019/ 17927 dated 25th November 2019.
8	Whether age and educational qualifications prescribed for direct recruits will apply in the case of promotees	Not applicable
9	Period of probation, if any	2 Years for Direct Recruits (Successful completion of mandatory Induction Training of at least two weeks duration shall be the pre-requisite for completion of probation for direct recruits)
10	Method of Recruitment whether by direct recruitment or by promotion or by deputation/ absorption and percentage of the vacancies to be filled by various methods	100% By Direct Recruitment Note:- 1. Vacancies caused by the incumbent being away on deputation or long illness or study leave or under other circumstances for a duration of one year or more may be filled

		<p>on deputation basis from officials of Central Government/State Government/Union Territories:-</p> <p>a) holding analogous post on regular basis in the parent cadre or department ; and</p> <p>b) possessing the qualifications and experience prescribed for direct recruits under column 7.</p> <p>Note:- 1 The period of deputation including the period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other organization/ department of the Central Government/ State Government / UT Administration shall be as per the instructions / guidelines issued by the Government from time to time.</p> <p>3. The maximum age limit for appointment by deputation shall be Not exceeding 56 years as on the closing date of receipt of applications.</p>
11	In case of recruitment by promotion/ deputation/absorption, grades from which promotion/ deputation/ absorption to be made	Not applicable
12	If a Departmental Promotion Committee exists, what is its composition	<p><u>Departmental Confirmation Committee (DCC)</u> (For confirmation)</p> <p>1) Director Principal, GMCH, Chandigarh- Chairman</p> <p>2) Representative of Personnel department - Member</p> <p>3) Representative of Social Welfare - Member</p> <p>4) Representative of Regional Employment Officer- Member</p>
13	Circumstances in which Union Public Service Commission to be consulted in making Recruitment	Not applicable

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Notification

The 4th December, 2024

No. 218 Genl./XVII.3(6-G).—By virtue of provisions of Section 47 of the Punjab Courts Act (VI of 1918) as amended from time to time, read with the Punjab Separation of Judicial and Executive Functions Act, 1964, it is hereby notified for general information that the dates enumerated in the Schedule below shall be observed as **holidays during the Calendar Year 2025** by all the Subordinate Courts in the **States of Punjab, Haryana and UT, Chandigarh :-**

SCHEDULE

<u>S. No.</u>	<u>NAME OF THE HOLIDAY</u>	<u>MONTH</u>	<u>DATE</u>	<u>DAY</u>	<u>No. of holidays</u>
1.	All Sundays	---	---	---	52
2.	2nd & 4th Saturdays	---	---	---	24
3.	New Year Day	January	01	Wednesday	1
4.	Birthday of Sri Guru Gobind Singh Ji	January	06	Monday	1
5.	Republic Day	January	26	Sunday	--
6.	Guru Ravi Dass Jayanti	February	12	Wednesday	1
7.	Maha Shivratri	February	26	Wednesday	1
8.	Holi	March	14	Friday	1
9.	Hola	March	15	Saturday	1
10.	Id-u'l-Fitr	March	31	Monday	1
11.	Ram Navami	April	06	Sunday	--
12.	Mahavir Jayanti	April	10	Thursday	1
13.	Baisakhi	April	13	Sunday	- -
14.	Dr. Ambedkar's Jayanti	April	14	Monday	1
15.	Martyrdom Day of Sri Guru Arjan Dev Ji	May	30	Friday	1
16.	Id-ul-Zuha (Bakrid)	June	07	Saturday	1
17.	Raksha Bandhan	August	09	Saturday	--
18.	Independence Day	August	15	Friday	1
19.	Sri Krishan Janmashtami	August	16	Saturday	1

<u>S. No.</u>	<u>NAME OF THE HOLIDAY</u>	<u>MONTH</u>	<u>DATE</u>	<u>DAY</u>	<u>No. of holidays</u>
20.	Mahatma Gandhi's Jayanti / Dussehra	October	02	Thursday	1
21.	Maharishi Valmiki Jayanti	October	07	Tuesday	1
22.	Diwali	October	21	Tuesday	1
23.	Vishavkarma Day	October	22	Wednesday	1
24.	Birthday of Sri Guru Nanak Dev Ji	November	05	Wednesday	1
25.	Martyrdom Day of Sri Guru Teg Bahadur Ji	November	25	Tuesday	1
26.	Christmas	December	25	Thursday	1
27.	Winter Spell	December	26-31	Friday to Wed	4
28.	Birthday of Sri Guru Gobind Singh Ji	December	27	Saturday	--

BY ORDER OF HON'BLE THE CHIEF JUSTICE AND JUDGES

(Sd.) . . .,

Deputy Registrar (General),
for Registrar General.

CHANGE OF NAME

I, Jaspreet Kaur W/o Dhavneet Singh R/o H. No. 3281, Sector 21-D, Chandigarh, have changed my name from Jaspreet Kaur to Jaspreet Kaur Dheer.

[1800-1]

I, Sunita W/o Ashok Kumar Residence of H. No. 458, Phase 2, Ramdarbar Chandigarh, 160002 have changed my name to Sunita Devi.

[1801-1]

I, Gayatri Goyar D/o Dinesh Goyar R/o H. No. 2146, Mauli Jagran, Chandigarh, have changed my name from Gayatri Goyar to Zoya.

[1802-1]

I, Rupinderjit Kaur D/o Karnail Singh Sandhu R/o # 592, Sector 10-D, Chandigarh, UT have changed my name from Rupinderjit Kaur to Roopinder Mann. All concerned please note.

[1803-1]

I, Jayanand S/o Mohan Lal # 62, Sector 27-A, Chandigarh, have changed the name of my minor daughter from Kumari Deepika to Deepika.

[1804-1]

I, Khushwinder Kaur W/o Jaswinder Singh Maan # 4094, Sector 56, Chandigarh, have changed the name of my minor son from Tanishq Maan to Tejveer Singh Maan.

[1805-1]

I, Chandra Mohan Jha S/o Uma Nath Jha, R/o House No. 109-A, 2nd Floor, Behlana U.T. Chandigarh, declare that I have changed my name from Chandra Mohan Jha to Chandra Mohan Kumar Jha.

[1806-1]

I, Soma Shee W/o Dilip Ghorai, # 83, Kishangarh, Chandigarh, have changed my name to Soma Ghorai.

[1807-1]

I, Noojhet Begam W/o Rahman Khan R/o 620/1, Kahjahedi, Sector 52, Chandigarh, near Government School, have changed my name from Musat Begam to Noojhet Begam, I shall be known by name of Noojhet Begam.

[1808-1]

I, Gaurav Sehgal S/o Prem Chand Sehgal R/o H. No. 3-A, Type-2, PGI Chandigarh, hereby affirm and declare that my Father's correct name is Prem Chand Sehgal instead of Prem Chand (PAN CARD KPAS8028P).

[1809-1]

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